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HARRISBURG, PA

SEP 26 2002

MARY E. D'ANDREA
Per CHS

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA

CHRISTOPHER LEWIS, : CIVIL ACTION - LAW
Plaintiff :
: :
: :
v. : NO. CV 00-0436

DOMINICK DEROSA, MARK
JESZENKA, MICHAEL HOHNEY,
ROBERT DRUM, MR. SHOEMAKER
CARL GARVER, and
DAUPHIN COUNTY,
Defendants : JUDGE RAMBO
: MAGISTRATE JUDGE SMYSER
: JURY TRIAL DEMANDED

DEFENDANTS' PROPOSED VOIR DIRE QUESTIONS

In addition to this Honorable Court's standard Voir Dire Questions,
Defendants submit the following proposed Voir Dire Questions:

1. Have any of you previously served on a jury?
 - (a) If so, was it in federal or state court?

- (b) If so, was it a criminal or civil case?
- (c) If it was a civil case, what was the outcome of that case?
- (d) If it was a criminal case, what was the outcome of that case?

2. **Have any of you had any legal training or education of any type?**

- (a) What was the nature and extent of that training?
- (b) When did that training occur?

3. **Have any of you had any mental health training or education of any type?**

- (a) What was the nature and extent of that training?
- (b) When did that training occur?

4. **Are you or any member of your immediate family acquainted with Plaintiff, Christopher Lewis?**

- (a) If so, how are you acquainted with that person?
- (b) Would that relationship affect your ability to render a fair and impartial verdict in this case?

5. **Are you or any member of your immediate family acquainted with Plaintiff's counsel, Samuel C. Stretton, from West Chester, Pennsylvania, or have you or any member of your immediate family ever been represented by Attorney Stretton?**
 - (a) If so, how are you acquainted with Attorney Stretton?
 - (b) Would that relationship affect your ability to render a fair and impartial verdict in this case?
 - (c) If you were represented by Attorney Stretton, when was that representation and what was the nature of that representation?
 - (d) Would the fact that you were represented by Attorney Stretton affect your ability to render a fair and impartial verdict in this case?
6. **Are you or any member of your immediate family acquainted with Defendants, Dominick DeRose, Mark Jeszenka, Michael Hohney or Robert Shumaker?**
 - (a) If so, how are you acquainted with that individual?

(b) Would that relationship affect your ability to render a fair and impartial verdict in this case?

7. **Are you or any member of your immediate family acquainted with Defendants' attorneys, Frank J. Lavery, Jr., or his firm, Lavery, Faherty, Young & Patterson, and have you or any member of your immediate family ever been represented by Attorney Lavery or his law firm?**

- (a) If so, how are you acquainted with that person?
- (b) Would that relationship affect your ability to render a fair and impartial verdict in this case?
- (c) If you were represented by Attorney Lavery or his firm, when was that representation and what was the nature of that representation?
- (d) Would the fact that you were represented by Attorney Lavery or his firm affect your ability to render a fair and impartial verdict in this case?

8. The parties have indicated that the following individuals employed at the Dauphin County prison may be called as witnesses during the trial of this matter: Deputy Wardens Leonard Carroll, James DeWees, and Elizabeth Nichols; Major Dennis Stewart; Captains Patrick Corkle, Joseph Lahr, and Michael Madden; Lieutenants John "Mickey" Adams, Charles Battenhausen, Theodore Bishop, Constance Bowers, Russell Hewitt, Gregory Mendenhall, Thomas Poley, Walter Shroy, Lee Rhoads, and Joseph Carnazzo; Sergeants Ken Cramer, Anthony Kuzo, Richard O'Neal, Tyrone Wilkerson, Walter Hostetter, Mike Cryder, Scott Rowe, and James Jones; Training Officer James Hinkley; Correctional Officers Kurt Boylstein, James McIntyre, Mario Eckert, James Heckard, Glorilyn Leffler, Ryan Jackson, David Mimms, James Miller, Tracy Yohn, Charles Brandt, Randy Pope, Thomas Gragg, and Mark Salvatore; Russ Palmer, Charles Jackson, Carol Colburn, RN and James Yanick, RN. The parties will also call Dauphin County employees

William Wenner, and Greg Benedek, as well as Dr. Abram Hostetter, a local psychiatrist. Are you or any member of your immediate family acquainted with any of the witnesses who may testify in this case?

- (a) If so, how are you acquainted with that person?**
- (b) Would that relationship affect your ability to render a fair and impartial verdict in this case?**

- 9. What is your occupation and your spouse's occupation?**
- 10. Have you or any member of your immediate family ever initiated a claim for personal injuries against anyone?**
 - (a) If so, what was the nature of the claim and how was the claim resolved?**
 - (b) Would that prior claim for personal injuries affect your ability to render a fair and impartial verdict in this case?**
- 11. Have you or any member of your immediate family ever initiated a lawsuit against a local government entity, local**

government officials, a prison, prison officials, a police department or police officers?

- (a) [at private sidebar]** If so, what was the nature of the claim and how was the claim resolved?
- (b)** Would the fact that you had initiated a prior lawsuit against a local government entity, local government official, a prison, prison officials, a police department or police officers affect your ability to render a fair and impartial verdict in this case?

12. Have you or any member of your immediate family ever been detained and/or incarcerated in any jail, county prison, and/or other correctional facility?

- (a) [at private sidebar]** If so, where were you detained and/or incarcerated?
- (b)** When were you detained and/or incarcerated and what was the nature of the charge?

(c) Would the fact that you or a member of your immediate family had been detained and/or incarcerated in any jail, county prison, and/or other correctional facility affect your ability to render a fair and impartial verdict in this case?

13. Have you or any member of your immediate family ever experienced problems with or lodged complaints against any prison, prison employee, correctional facility and/or correctional officer?

(a) [at private sidebar] If so, what was the nature of the problem or complaint and how was it resolved?

(b) Would the fact that you or a member of your immediate family lodged a complaint against a correctional facility and/or employee, affect your ability to render a fair and impartial verdict in this case?

14. Have you or any member of your immediate family ever experienced problems with or lodged complaints against

Dominick DeRose, Mark Jeszenka, Mike Hohney, the Dauphin County Prison and/or Dauphin County?

(a) [at private sidebar] If so, what was the nature of the problem or complaint and how was it resolved?

(b) Would the fact that you or a member of your immediate family lodged such a complaint affect your ability to render a fair and impartial verdict in this case?

15. Have you or any member of your immediate family ever been involved in a problem and/or dispute with an employer regarding calculation of wages due and/or availability of employee benefits?

(a) [at private sidebar] If so, what was the nature of the problem and/or dispute with the employer?

(b) If so, when did that problem and/or dispute over wages/employment benefits arise?

(c) What was the outcome of that problem and/or dispute over wages/employment benefits?

(d) Would the fact that you or a member of your immediate family had a problem and/or dispute with an employer over wages/employment benefits affect your ability to render a fair and impartial verdict in this case?

16. **Would any of you not be able to return a verdict in favor of Defendants if warranted by the evidence due to a dislike of government entities, local government officials, prison, prison employees, police departments or police officers?**

17. **Have you or any member of your immediate family ever been retaliated against by an employer because you or the family member reported to anyone instances of wrongdoing or misconduct within the company?**

(a) **[at private sidebar]** If so what was the nature of the problem or dispute with the employer regarding reports of wrongdoing or misconduct within the company?

(b) If so, when did the problem or dispute with the employer regarding reports of wrongdoing or misconduct occur?

- (c) What was the outcome of that problem or dispute with the employer regarding report of wrongdoing or misconduct?
- (d) Would the fact that you or a member of your immediate family was retaliated against by an employer for reporting instances of wrongdoing or misconduct within the company affect your ability to render a fair and impartial verdict in this case?

18. Have you or any member of your immediate family ever been arrested, pled guilty or been convicted of a crime other than a minor traffic offense?

- (a) **[at private sidebar]** If so, when did this arrest, guilty plea and/or conviction take place and what was the nature of the charge?
- (b) Would the fact that you or a member of your immediate family was arrested, pled guilty or been convicted of a

crime, other than a minor traffic offense, affect your ability to render a fair and impartial verdict in this case?

- 19. Do you belong to any civic organizations or recreational groups?**
 - (a) If so, do you hold any offices?**
 - (b) What are the functions of the group?**
- 20. Have you read any newspaper articles about this case?**
 - (a) [at private side bar] If so, describe what you recall.**
 - (b) Would your ability to render a fair and impartial verdict in this case be influenced by what you read?**
- 21. Have you seen any television accounts or heard any radio accounts of this case?**
 - (a) [at private side bar] If so, describe what you recall.**
 - (b) Would your ability to render a fair and impartial verdict in this case be influenced by those television and/or radio accounts?**

22. Do you believe that the mere fact that a case is going to trial means that the Defendants must have done something wrong and the person who filed the lawsuit is entitled to prevail?
23. The Plaintiff presents his case first, and the Defendants will present their evidence after the Plaintiff's case is completed. Would you have any problems refraining from making a decision on any aspect of the case until you heard the evidence from both sides?
24. Do any of you know of any reason whatsoever why you could not sit as a fair and impartial juror in this case and come to a verdict solely on the basis of the evidence presented in this courtroom and the instructions on the law which will be given to you by the Judge?
25. Defendants request the right to ask reasonable follow-up questions as warranted on the jurors' responses to the foregoing voir dire questions.

Respectfully submitted,

LAVERY, FAHERTY, YOUNG &
PATTERSON, P.C.

Date: 9/26/02

By:

Frank J. Lavery, Jr., Esquire
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Attorney for Defendants

CERTIFICATE OF SERVICE

I, Linda L. Gustin, an employee with the law firm of Lavery, Faherty, Young & Patterson, P.C., do hereby certify that on this 26th day of September, 2002, I served a true and correct copy of the foregoing **Defendants' Proposed Voir Dire Questions** via U.S. First Class Mail, postage prepaid, addressed as follows:

Don Bailey, Esquire
4311 North Sixth Street
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Samuel C. Stretton, Esquire
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Linda L. Gustin
Linda L. Gustin